

# Value Pricing Implementation Agreement

No. \_\_\_\_ of \_\_\_\_ Executed  
Original Counterparts

**AGREEMENT By and Between FEDERAL HIGHWAY ADMINISTRATION,  
MARYLAND DEPARTMENT OF TRANSPORTATION, AND MARYLAND  
TRANSPORTATION AUTHORITY FOR THE COLLECTION OF TOLLS**

THIS AGREEMENT, made and entered into this \_\_\_\_ day of \_\_\_\_\_ 2005, by and between the MARYLAND DEPARTMENT OF TRANSPORTATION, an agency of the State of Maryland, (hereinafter referred to as "MDOT"), the MARYLAND TRANSPORTATION AUTHORITY, an instrumentality of the State of Maryland, (hereinafter referred to as "MdTA") and the FEDERAL HIGHWAY ADMINISTRATION, UNITED STATES DEPARTMENT OF TRANSPORTATION, (hereinafter referred to as "FHWA"):

WITNESSETH:

WHEREAS, Section 1012(b)(4) of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Pub. L. No. 102-240, as amended, permits the FHWA to allow the collection of tolls as part of a value pricing pilot program established under section 1012(b); and

WHEREAS, the FHWA and MDOT have entered into a cooperative agreement, dated September 27, 1999, establishing a value pricing program under Section 1012(b); and

WHEREAS, as part of Maryland's value pricing program, MdTA intends to establish Express Toll Lanes (ETLs) adjacent to non-tolled general purpose lanes on Interstate 95, also known as the JFK Expressway, from a point south of the I-895N split to approximately 2.7 miles north of MD 43 (hereinafter referred to as "Section 100"); and

WHEREAS, federal funds from the value pricing pilot program were used to study the feasibility of establishing ETLs on Section 100; and

WHEREAS, the portion of Section 100 located south of the MD 43 interchange was constructed under Title 23 of the United States Code, with federal-aid highway funds that have not been repaid; and

WHEREAS, the amount of federal-aid highway funds used in the construction of the portion of Section 100 located 2.7 miles north of the MD 43 interchange was repaid to the Federal Treasury pursuant to Section 6 of the Federal Highway Act of 1960; and

WHEREAS, on or about August 14, 1989, MDOT, MdTA, and the FHWA entered into an agreement providing that, among other things, Interstate 95, from MD 43 to MD 279

(except for the segment between MD 155 and US 222), always be free from tolls (hereinafter referred to as the "1989 Agreement"); and

WHEREAS, the FHWA has determined that this Agreement is necessary to authorize the collection of tolls on the ETLs on Section 100 south of the MD 43 interchange, pursuant to Section 1012(b)(4) of ISTEA, as amended; and

WHEREAS, pursuant to Section 1012(b)(3) of ISTEA, as amended, any revenues generated by a value pricing pilot project authorized under that section must be applied to projects eligible for federal assistance under title 23; and

WHEREAS, in order to authorize the implementation of ETLs on Section 100 from the MD 43 interchange to the north, it is necessary to amend the 1989 Agreement between FHWA, MDOT, and the MdTA;

NOW THEREFORE, MDOT, MdTA, and FHWA hereby agree as follows:

- (1) The recitals are incorporated into this Agreement as if fully set forth in this paragraph.
- (2) MDOT and MdTA may operate ETLs on Section 100 south of the MD 43 interchange as part of the Maryland value pricing program.
- (3) Pursuant to Section 1012(b) of ISTEA, as amended, MDOT and MdTA will use all revenues received from the operation of the ETLs on Section 100 south of the MD 43 interchange for the costs of the Section 100 project (which may include but are not limited to project implementation costs; the proper maintenance of the facility; any reconstruction, rehabilitation, restoration, or resurfacing of the facility; and any debt service incurred in implementing the project; a reasonable return on investment of any private person financing the project) and other projects eligible for assistance under title 23, United States Code.
- (4) The toll rates charged for the use of the ETLs on Section 100 south of the MD 43 interchange will vary pursuant to the applicable guidance pertaining to section 1012(b) of ISTEA, as amended.
- (5) MDOT and MdTA agree, upon reasonable notice, to make all of its records pertaining to the Facility subject to audit by the FHWA. The MDOT and MTA agree to annually audit the records of the Facility for compliance with the provisions of this Agreement and report the results thereof to FHWA. In lieu of the MDOT and MdTA performing said audit, a report of the State Auditor or an independent auditor furnished to FHWA may satisfy the requirements of this section.
- (6) The 1989 Agreement, is hereby modified as follows:

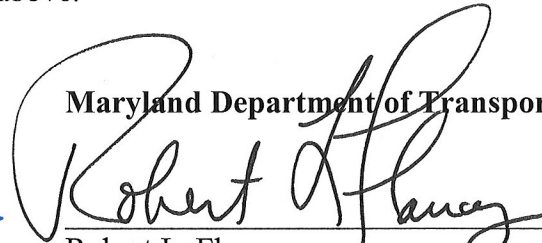
- (a) Paragraph 1 is amended by deleting "Maryland Route 43" and replacing it with "a point 2.7 miles north of the Maryland Route 43 interchange."
- (b) All other provisions of the 1989 agreement and any amendments to it remain in full force and effect.
- (7) This Agreement will be prepared in triplicate originals so that each signatory will have a signed Agreement.

IN WITNESS THEREOF, the parties hereto have caused this instrument to be duly executed, the day and year first written above.

**Maryland Transportation Authority**

  
Trent M. Kittleman  
Executive Secretary

**Maryland Department of Transportation**

  
Robert L. Flanagan  
Secretary

**Federal Highway Administration**

  
Nelson Castellanos  
Division Administrator